



# DEBT RELIEF COMPANIES PROHIBITED FROM COLLECTING ADVANCE FEES

by Texas Attorney General Greg Abbott

ON OCT. 27, FEDERAL RULES GOVERNING debt relief services were changed in order to help prevent debtors from being defrauded.

Under new provisions of the Federal Trade Commission's (FTC) Telemarketing Sales Rule, debt relief service companies are prohibited from charging advance fees. Before the change, many debt relief service companies required their customers to pay large up-front fees for debt consolidation and reduction services.

Today, however, debt relief service companies can only charge customers after they have successfully reduced, settled or otherwise negotiated the terms of at least one of the customer's debts. Additionally, any debt settlement fees must be clearly detailed in a formal written contract between the company and the customer. All fees must be proportionate to the amount of debt at issue. Both the FTC and the Texas Attorney General's Office will have authority to enforce the new rule.

The new federal rule also allows debt relief service companies to require that their customers set aside service fees –

along with savings for creditor payments – into a separate, dedicated account. Providers may only require a dedicated account if five conditions are met:

- The account is maintained at an insured financial institution;
- The account is set-up in the customer's name and under the customer's full control;
- The customer has the right to withdraw the funds at any time without penalty;
- The provider does not own, control or have any affiliation with the financial institution administering the account; and
- The provider does not exchange any referral fees with the company administering the account.

In addition to these protections, the new FTC rule requires debt relief service companies to disclose a debt reduction settlement's potential negative consequences to the client. Debt relief service companies must also tell clients how long it will take to see a settlement's results. Finally, the new rule prohibits debt relief service companies from misrepresenting

success rates or falsely claiming to be a nonprofit company.

The new rule applies to telemarketers of for-profit debt relief services, including credit counseling, debt settlement and debt negotiation services. The rule does not cover nonprofit firms, but does cover companies that falsely claim nonprofit status.

The FTC has issued a guide to help debt relief service companies comply with the amended debt relief rule. The guide describes the key changes to the Telemarketing Sales Rule – including how those changes affect debt relief services – help businesses determine if they are covered by the new rules, mandatory disclosures to customers and the collection of debt settlement fees. The guide for businesses is available on the FTC's website at [www.ftc.gov](http://www.ftc.gov).

Texans who believe a debt relief service company has violated the new rule may file a complaint with the Texas Attorney General's Office online at [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov) or by calling (800) 252-8011.

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## POINTS TO REMEMBER



### TELEMARKETING SALES RULE AMENDMENTS

Under the federal rule, debt relief service companies:

- may not charge fees before settling or reducing a client's credit card or other unsecured debt
- must meet five conditions if they require consumers to set aside funds for creditor payments into a dedicated account
- must make specific disclosures to customers about a settlement's potential consequences and how long it will take to see its results
- must not misrepresent its success rate or falsely claim to be a nonprofit company.

The FTC's guide to help businesses comply with the rule's amendments is available online at [www.ftc.gov](http://www.ftc.gov).

Information about this and other debt elimination topics is available on the Attorney General's website at [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov).



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